

N.D.A.G. Letter to Burke (May 2, 1988)

May 2, 1988

Ms. Patricia L. Burke
Burleigh County State's Attorney
Burleigh County Courthouse
514 East Thayer Avenue
Bismarck, ND 58501

Dear Ms. Burke:

Thank you for your letter dated March 24, 1988, in which you inquire as to your responsibilities as state's attorney under N.D.C.C. ch. 27-20.

An examination of N.D.C.C. ch. 11-16, pertaining to state's attorneys, and N.D.C.C. ch. 27-20, the Uniform Juvenile Court Act, discloses only one statutory duty placed upon state's attorneys in juvenile court proceedings. N.D.C.C. § 27-20-24(3) provides:

3. The state's attorney upon request of the court shall present the evidence in support of any allegations of the petition not admitted and otherwise conduct the proceedings on behalf of the state.

In a conversation with a member of my staff, you indicated that your primary concern is not with appearing in the juvenile court, presenting evidence in support of allegations of a petition not admitted, or the preparation of final orders after participating in the proceeding. Your principal question is whether the state's attorney is required to perform clerical work for the juvenile court in the preparation of all paperwork prior to the actual commencement of the juvenile court hearing. Because of budget and staff constraints, you do not feel that you can absorb the additional workload of the juvenile court in your office.

I am unable to locate any statutory duties or responsibilities placed upon the state's attorney to provide support and clerical services to the juvenile court. Although N.D.C.C. ch. 27-20 does set forth various types of documents which must be prepared prior to the commencement of a hearing, nothing in that chapter establishes who must prepare those documents. I note, however, that N.D.C.C. § 27-20-05(3) authorizes a judge of the juvenile court, in his discretion, to provide for the employment of "probation officers, clerical, and other specialized personnel under the direction and supervision of the judge, to assist the court and juvenile supervisors in carrying out the provisions of this chapter." In addition, N.D.C.C. § 27-20-24(4) provides for the manner of payment of all compensation and supplies incurred by the juvenile court. Other than the providing of suitable quarters, lights, and fuel, which must be borne by the county, all other expenses of the juvenile court will be paid by the state.

Based upon these provisions, it does appear that the North Dakota Legislature intended that the majority of the expenses of conducting juvenile court business be paid not from the county budget but, rather, from the budget of the state of North Dakota.

Although your office could assume some of the juvenile court clerical workload if you desired subject to your budgetary and personnel constraints, assumption of these responsibilities is not statutorily mandated.

I trust that this response has adequately responded to your inquiry.

Sincerely,

Nicholas J. Spaeth

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